

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

MAUREEN MCCARTNEY

v.

CITIFINANCIAL AUTO CREDIT, INC.,  
NCC BUSINESS SERVICES, INC., and  
CAVALRY PORTFOLIO SERVICES, LLC

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Case No. 4:10-CV-424  
Judge Schneider/Judge Mazzant

## **MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On December 14, 2010, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendant CitiFinancial Auto Credit, Inc.'s Motion to Dismiss Plaintiff's Amended Complaint should be granted in part and denied in part.

The Court, having made a *de novo* review of the objections raised by Plaintiff, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

It is, therefore, **ORDERED** that Defendant CitiFinancial Auto Credit, Inc.'s Motion to Dismiss Plaintiff's Amended Complaint (Dkt. #21) is **GRANTED** in part and **DENIED** in part.

The following causes of action are dismissed:

- Texas Debt Collection Act Section 392.301(7),(8)
- Texas Debt Collection Act Section 392.303(a)(2)
- Texas Debt Collection Act Section 392.304(a)(4),(8),(18),(19)

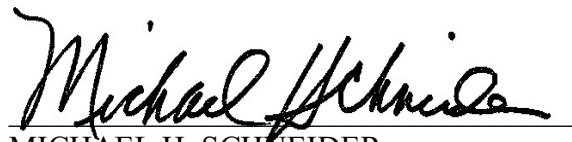
- Texas Debt Collection Act Section 392.306
- Deceptive Trade Practices Act

The following causes of action are not dismissed:

- Texas Debt Collection Act Section 392.302(4)
- Breach of Contract
- Common-law Fraud

**It is SO ORDERED.**

**SIGNED this 16th day of February, 2011.**

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE